Conflicts – Treating Multiple Members of a Family

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NOTE: The following article was first published on the CPH Insurance's website in April 2008. It appears below, with minor changes, as a reminder to practitioners who may treat multiple members of a family, whether concurrently or consecutively, that questions may arise that involve issues of confidentiality, privilege, termination, recordkeeping, and conflicts. It is important to think of these issues early in any such relationships in order to avoid or minimize problems and misunderstandings.

CONFLICTS – TREATING MULTIPLE MEMBERS OF A FAMILY

Many mental health practitioners treat more than one member of a family, either concurrently or consecutively. This occurs most commonly when a therapist or counselor sees spouses in couples therapy, when a parent and child are seen conjointly and/or separately, when two or more children of the same family are seen together or separately, and in other situations too numerous to mention. When treating multiple members of a family, the practitioner must be careful to avoid conflicts.

Conflicts can sabotage the treatment and may lead to the need to terminate with one or more of the participants (or all). Moreover, it can generate a complaint to the licensing board or result in a civil lawsuit for monetary damages.

While it is true that conflicts cannot always be avoided, even by the exercise of sound clinical judgment, it is also true that conflicts can sometimes be avoided or at least the chances of them occurring can be minimized. Additionally, even when a conflict occurs, the resulting consequences for the practitioner might be minimized by prudent and thoughtful action(s) by the practitioner. So, what are some of the things that a psychotherapist should think about when working with multiple members of a family to try to limit liability exposure and vulnerability? Some basic considerations are discussed below. This discussion is not intended to be exhaustive, but is illustrative of what might be addressed in order to minimize adverse occurrences. Questions are raised in order to demonstrate the breadth of issues that can arise.

First, it is critical for practitioners to be clear, **during the entire course of treatment**, as to **who is the patient**. While it may seem obvious, many of my consultations over the years have indicated otherwise. Often, practitioners have treated more than one member of the family and then they have trouble telling me (I always ask) exactly who the patient is (perhaps the therapist has seen an

adolescent and has also seen one or both parents in conjunction with the treatment of the minor). Did the parents consider themselves to be “patients” or did they consider that the family was the patient? Did the therapist or counselor address this issue with the parents and/or the adolescent? What did each party believe?

Generally, the patient is the holder of the **psychotherapist-patient privilege**. So, when more than one person is being seen (as in the above example), who is the holder of the privilege – the parents, the child, or the family? Are there joint holders of the privilege? What if the therapist receives a subpoena for the records of the father when he has been seen collaterally to the treatment of his child? Is the father covered by the psychotherapist-patient privilege? These are but a few of the questions that can arise. Central to determining a proper response to any of these or other questions – the practitioner must be aware of who the patient is, and must be sure that the treatment records are consistent with his/her later assertions regarding the nature of the relationship with one or more of the parties.

Record keeping becomes even more important than usual when the nature of a relationship changes. For instance, when conjoint therapy ends because one member of the couple drops out of therapy, the records should clearly reflect what occurred and the nature of any continuing relationship. For instance, will the therapist now treat the remaining patient in individual therapy? What if the one who drops out of conjoint therapy has a change of mind and now wants to continue with the therapy? If conjoint therapy had been properly terminated and a new and different relationship has begun, it may be difficult to commence conjoint therapy again. If the situation was ambiguous because the nature of the relationship had not been addressed, this might later result in a messy situation between the parties. And, if things “blow up,” will the practitioner’s records bring clarity to the situation or will they create confusion and problems for the practitioner?

Practitioners must remember that obtaining **consultation** is extremely important. Should there ever be litigation or an inquiry into the practitioner’s behavior, it would be helpful if the practitioner had support for his or her clinical judgment when agreeing, for example, to see multiple members of a family individually. The very act of seeking consultation is itself a sign of a careful and prudent practitioner, one might argue. Reasonable minds can differ when considering questions such as whether or not it is clinically appropriate, under certain circumstances, to see multiple members of the same family in individual therapy. Likewise, reasonable minds can differ when considering actions that the practitioner should take when confronted with a conflict. A careful review of relevant ethical standards should be done at the earliest time possible. Clinical consultation may help to support the actions of the practitioner should questions be raised about the clinical judgment exercised.

The issue of **termination** must also be considered when discussing the topic of avoiding conflicts (or minimizing their effects) when treating multiple members of a family individually. Termination may need to be considered, for example, when a conflict does arise, whether unexpectedly and unlikely, or when the conflict should have been recognized or anticipated by the practitioner. In either event, the practitioner will want to minimize the negative effects of the conflict. Difficult decisions need to be made, some of which deal with termination. Would it be best to terminate with all members of the

family affected by the conflict? How does the therapist or counselor decide which member(s) of the family to terminate?

The issue of termination also is involved in situations where, for example, one member of the family or the couple in treatment prematurely and unilaterally terminates treatment. How should the practitioner deal with this situation? Should a letter be sent confirming the unilateral termination? Should the practitioner call the patient and invite him or her back into therapy? Before agreeing to see the remaining member or members of the family, must the therapist or counselor have a discussion about the end of one kind of relationship and the beginning of another?

With respect to **confidentiality**, special considerations are necessary. For example, when treating a couple or family, will there be an established "no secrets" policy? If so, will the couple or family be informed of this in a written document? Will each person understand that access to their records (by each of them) and authorization to release their records to a third party will require the approval of both or all parties? Does state law support such an approach? If these issues are not considered and discussed, the possibility or likelihood of a conflict may increase. A different aspect of confidentiality is involved in the following scenario.

Suppose that the practitioner is seeing a mother and a daughter, perhaps in individual sessions, for some period of time. Something may occur that leads the daughter to think that the practitioner may have leaked information to the mother. Perhaps the mother independently confronted her daughter about suspected drug use, something that the daughter was confidentially discussing with her therapist. This kind of a scenario, and others, may lead to confrontations. Practitioners must be clear with patients regarding how zealously they take their duty of confidentiality. Practitioners must also take care to not unintentionally "leak" information about one patient to another, either by word or by body language (e.g., by facial expression when a question is raised). If the practitioner is not focused, mistakes may be made.

The above is but one example of the reason why practitioners need to carefully consider whether or not they should enter into professional relationships with more than one member of a family (other than when treating a couple or a family). Sometimes, a referral to a colleague can be a wise decision, even though the contemplated treatment of more than one member of the family may be clinically appropriate or supportable.